

## Article - Environment

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§5–203.1.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Commercial activity” means a project or activity undertaken for consideration, regardless of whether a profit is made.

(ii) “Commercial activity” includes:

1. A subdivision;
2. A development; and
3. Constructing or operating a marina.

(3) “Commercial building” means a building that is used primarily for commercial activity.

(4) “Development” means a project for the construction of:

- (i) Two or more residential dwelling units;
- (ii) A commercial structure; or
- (iii) An industrial structure.

(5) “Dwelling unit” means a property that contains:

- (i) One or more rooms used as a residence;
- (ii) Kitchen facilities; and
- (iii) Bathroom facilities.

(6) “Major project” means a project that:

(i) Proposes to permanently impact 5,000 square feet or more of wetlands or waterways, including the 100–year floodplain;

(ii) Is located in an area identified as potentially impacting a nontidal wetland of special State concern by a geographical information system database that:

1. Has been developed and maintained by the Department of Natural Resources; and

2. Is used by the Department to screen incoming applications; or

(iii) Requires the issuance of a public notice by the Department.

(7) “Marina” means a facility for the mooring, docking, or storing of more than 10 vessels on tidal navigable waters, including a commercial, noncommercial, or community facility.

(8) “Minor project” means a project that:

(i) Proposes to permanently impact less than 5,000 square feet of wetlands or waterways, including the 100-year floodplain; and

(ii) Does not meet the definition of a major project.

(9) “Residential activity” means a noncommercial activity that is conducted on residential property.

(10) (i) “Residential property” means improved property that is used primarily as a residence or unimproved property that is zoned for use as a residence.

(ii) “Residential property” includes:

1. Property owned by a homeowners’ association; and

2. A condominium.

(iii) “Residential property” does not include:

1. A commercial building;

2. A marina; or

3. A residential apartment complex or building.

(11) (i) “Subdivision” means the division of a lot, tract, or parcel of land into two or more lots, plots, sites, tracts, parcels, or other divisions for the immediate or future purpose of selling or development.

(ii) “Subdivision” includes resubdivision.

(b) (1) Except as provided under paragraphs (2), (3), and (6) of this subsection, all applications for wetlands and waterways authorizations issued by the Department under §§ 5–503 and 5–906 of this title and §§ 16–202, 16–302, and 16–307 of this article or wetlands licenses issued by the Board of Public Works under § 16–202 of this article shall be accompanied by an application fee as follows:

(i) For an application for a minor project or general permit.....\$750;

(ii) For an application for a minor modification.....\$250;

(iii) For an application for a major project with a proposed permanent impact of:

1. Less than 1/4 acre .....\$1,500;

2. At least 1/4 acre, but less than 1/2 acre.....\$3,000;

3. At least 1/2 acre, but less than 3/4 acre.....\$4,500;

4. At least 3/4 acre, but less than 1 acre.....\$6,000; and

5. 1 acre or more.....the impact area in acres multiplied by \$7,500; and

(iv) For an application for a major modification.....\$1,500.

(2) The following are exempt from the application fees established under paragraph (1) of this subsection:

(i) Regulated activities conducted by the State, a municipal corporation, county, bicounty or multicounty agency under Division II of the Land Use Article or Division II of the Public Utilities Article, or a unit of the State, a municipal corporation, or a county;

(ii) Performance of agricultural best management practices contained in a soil conservation and water quality plan approved by the appropriate soil conservation district;

(iii) Performance of forestry best management practices contained in an erosion and sediment control plan:

1. Prepared by a registered forester; and
2. Approved by the appropriate soil conservation district;

(iv) Stream restoration, vegetative shoreline stabilization, wetland creation, or other project in which the primary effect is to enhance the State's wetland or water resources; and

(v) Aquacultural activities for which the Department of Natural Resources has issued a permit under Title 4, Subtitle 11A of the Natural Resources Article.

(3) Except as provided in paragraph (4) of this subsection, the following shall be minor projects and subject to the appropriate application fee under paragraph (1)(i) and (ii) of this subsection:

(i) A residential activity issued a permit under §§ 5–503 and 5–906 of this title and §§ 16–202, 16–302, and 16–307 of this article; and

(ii) A mining activity undertaken on affected land as identified in a permit issued under Title 15 of this article.

(4) Subject to paragraph (5) of this subsection, an application for the following minor projects shall be accompanied by the following application fees:

(i) Installation of:

1. One boat lift or hoist, not exceeding four boat lifts or hoists per pier;

2. One personal watercraft lift or hoist, not exceeding six personal watercraft lifts or hoists per pier; or

3. A combination of boat lifts or hoists and personal watercraft lifts or hoists, not exceeding six lifts or hoists per pier, of which not more than four lifts or hoists are boat lifts or hoists \$300;

(ii) Installation of a maximum of six mooring pilings.....\$300;

- (iii) In-kind repair and replacement of structures.....\$300;
- (iv) Installation of a fixed or floating platform on an existing pier where the total platform area does not exceed 200 square feet.....\$300;
- (v) Construction of a nonhabitable structure that permanently impacts less than 1,000 square feet, such as a driveway, deck, pool, shed, or fence.....\$300;
- (vi) Replacement of an existing bulkhead where the replacement bulkhead does not exceed more than 18 inches channelward of the existing structure.....\$500;  
and
- (vii) In-kind repair and replacement of existing infrastructure.....\$500.

(5) The Department may not require an application fee for:

(i) The installation of a boat lift, hoist, or personal watercraft lift on existing pilings; or

(ii) If the existing structure is functional and there is no increase in the original length, width, height, or channelward encroachment authorized under § 16-202, § 16-302, or § 16-307 of this article, the routine maintenance, repair, or replacement of:

1. A highway structure;
2. A pier;
3. A boathouse;
4. A structure on a pier;
5. A bulkhead;
6. A revetment;
7. A tidal impoundment dike;
8. A water control structure;
9. An aboveground transmission facility;

10. An agricultural drainage ditch; or

11. A highway drainage ditch.

(6) The application fee for a structural shoreline stabilization project located on or adjacent to a State-owned lake may not exceed \$250.

(7) The fees imposed under this subsection may not be modified without legislative enactment.

(8) (i) Subject to paragraph (7) of this subsection, the Department may adjust the fees established under paragraphs (1), (4), and (6) of this subsection to reflect changes in the consumer price index for all “urban consumers” for the expenditure category “all items not seasonally adjusted”, and for all regions.

(ii) The Annual Consumer Price Index for the period ending each December, as published by the Bureau of Labor Statistics of the U.S. Department of Labor, shall be used to adjust the fees established under paragraphs (1), (4), and (6) of this subsection.

(c) (1) There is a Wetlands and Waterways Program Fund.

(2) The Department shall administer the Fund.

(3) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(4) The Fund consists of all:

(i) Application fees collected by the Department under this section;

(ii) Monetary compensation paid to the State in conjunction with a wetlands license other than that compensation specified in § 16–205(e)(2) of this article;

(iii) Money appropriated in the State budget to the Fund; and

(iv) Investment earnings, interest, and any other money from any other source accepted for the benefit of the Fund.

(5) In accordance with subsection (e) of this section, the Department shall use the Wetlands and Waterways Program Fund for activities related to:

(i) The issuance of authorizations by the Department under §§ 5–503 and 5–906 of this title and §§ 16–202, 16–302, and 16–307 of this article or the issuance of wetlands licenses by the Board of Public Works under § 16–202 of this article;

(ii) The management, conservation, protection, and preservation of the State’s wetlands and waterways resources; and

(iii) Program development associated with this title and Title 16 of this article, as provided by the State budget.

(d) On or before December 31 of each year, in accordance with § 2–1257 of the State Government Article, the Department shall prepare and submit an annual report to the House Environment and Transportation Committee, the House Appropriations Committee, the Senate Education, Health, and Environmental Affairs Committee, and the Senate Budget and Taxation Committee on the Wetlands and Waterways Program Fund, including an accounting of financial receipts deposited into the Fund and expenditures from the Fund.

(e) The Department shall:

(1) Prioritize the use of the Wetlands and Waterways Program Fund to improve the level of service to the regulated community;

(2) Identify and implement measures that will reduce delays and duplication in the administration of the wetlands and waterways permit process, including the processing of applications for wetlands and waterways permits in accordance with § 1–607 of this article; and

(3) In conjunction with the Department of Natural Resources, identify up to three types of structural shoreline stabilization practices that may be implemented on or adjacent to a State-owned lake.

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